THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.19896 of 2007

Between:

M/s.Essar Telecom Infrastructure Private Limited.

.. PETITIONER

and

The Government of A.P., and others.

.. RESPONDENTS

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ORDER:

It is the case of the petitioner that the Government of India granted licence to provide infrastructure to the licensed Telephone Operating Companies like IDEA, AIRTEL, HUTCH etc., which are providing Telephones to the needy customers. To meet the business requirement, AIRTEL has identified the land in H.No.1-30/B in Sy.No.950, situated at Motakonduru Village, Yadagirigutta Mandal, Nalgonda District, belonging to one Sri Mote Narasaiah and his son for erection of Telecommunication Tower along with allied equipment. It is stated that the said land belongs to one Mote Narasaiah and his son and it is not a Government land. Therefore, the petitioner entered into an agreement on 05-06-2007 with Mote Narasaiah and his son and accordingly erected AIRTEL Tower in the said land. While so, the 3rd respondent issued Notice under Section 7 of the Land Encroachment Act, 1905 (for short "the Act") in proceedings No.B/1842/2007, dated 08-08-2007, stating that the land admeasuring 600 sq. yards in Sy.No.950 situated at Motakondur Village, Yadagirigutta Mandal, Nalgonda District, belongs to the Government and the petitioner illegally encroached upon the said land and erected AIRTEL Tower. It is stated that the said land is proposed for house sites to the weaker section. Accordingly, the petitioner was directed to submit explanation within 24 hours from the date of receipt of the said notice. It is stated that without serving the said notice to the petitioner, the 3rd respondent addressed letter No.B/1842/2007, dated 21-08-2007, to the Revenue Divisional Officer, Bhongir, stating that the petitioner has not responded to the said notice, dated 08-08-2007, and did not remove the AIRTEL Tower and therefore, requested the Revenue Divisional officer, Bhongir, to issue necessary instructions for taking further action.

It is further stated that the respondents are taking steps to remove the AIRTEL Tower erected by the petitioner without following due process of law.

I am of the opinion that under the Act, after giving notice to the person in occupation under Section 7 of the Act, an order has to be passed for eviction under Section 6 of the Act. But, however, the learned counsel for the petitioner stated that even before passing the order under Section 6 of the Act, the respondents are taking steps to remove the AIRTEL Tower erected by the petitioner. Further, on a perusal of the letter, dated 21-08-2007, addressed by the 3rd respondent to the Revenue Divisional Officer, Bhongir, goes to show that no order has been passed under Section 6 of the Act.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the 3rd respondent to give reasonable opportunity to the petitioner and pass appropriate orders in accordance with law, pursuant to the notice issued under Section 7 of the Act. Further, till the order is passed under Section 6 of the Act, AIRTEL Tower erected by the petitioner shall not be removed. There shall be no order as to costs.

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20-09-2007

Prv